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2004 SEP 27 P 4:04

U.S. DISTRICT COURT
DISTRICT OF MASS.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SENSITECH INC. AND DONALD W.
BERRIAN

Plaintiff,

v.

TIME & TEMPERATURE COMPANY,
d/b/a TIME 'N TEMPERATURE
CORPORATION

Defendant.

Civil Action No. 04-11483 (MLW)

**DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO
FILE A SURREPLY AND CONDITIONAL MOTION FOR LEAVE TO FILE A
FURTHER REPLY**

Defendant Time & Temperature Company ("Time 'N Temperature") hereby opposes Plaintiff's Motion for Leave to File a Surreply ("Surreply") because it mischaracterizes Time 'N Temperature's contacts with this forum. Time 'N Temperature will assent to the Surreply provided that Time 'N Temperature is granted leave to file the attached four-page memorandum in further reply to Plaintiffs' Surreply.

In support of this Opposition and Motion, Defendant states that Plaintiffs' Surreply contains mischaracterizations of Time 'N Temperature's minimal contacts with this forum which, if left un rebutted, would establish an incomplete and misleading record on Defendant's Motion to Dismiss, Or In The Alternative, To Transfer Venue. To address Plaintiffs' mischaracterations and to assist the Court in resolving these

jurisdictional and venue questions on a complete and accurate record, Defendant respectfully requests, pursuant to Local Rule 7.1(B)(3), leave to file the attached, four-page further reply.

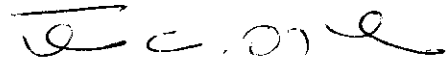
Local Rule 7.1(A)(2) Certification

I hereby certify that defendant's counsel attempted to contact plaintiffs' counsel, John Gutkoski, Esq. by telephone prior to filing this Motion in a good faith effort to narrow or resolve the issues raised by the same. The parties were unable to narrow the issues.

Respectfully submitted,

CESARI AND McKENNA, LLP

Dated: September 27, 2004



Thomas C. O'Konski BBO #377475
Attorneys for Defendant,
Time 'N Temperature Company
88 Black Falcon Avenue
Boston, MA 02210
(617) 951-2500

Of Counsel:

Daniel M. Cislo, Esq., CA Bar No. 125,378
David B. Sandelands, Esq., CA Bar No. 198,252
CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Telephone: 310-451-0647
Facsimile: 310-394-4477

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Defendant's Opposition to Plaintiffs' Motion For Leave to File a Surreply and Conditional Motion for Leave to File a Further Reply is being deposited with the United States Postal Service on September 27, 2004, in an envelope addressed to counsel for plaintiff, Sensitech Inc. and Donald W. Berrian:

John T. Gutkoski
Day, Berry & Howard LLP
260 Franklin Street
Boston, MA 02110-3179

Matthew J. Becker
Day, Berry & Howard LLP
CityPlace I
Hartford, CT 06103-3499

Catherine Dugan O'Connor
Day, Berry & Howard LLP
One Canterbury Green
Stamford, CT 06901-2047